

Staff Report 32

APPLICANT:

Turlock Irrigation District and Modesto Irrigation District

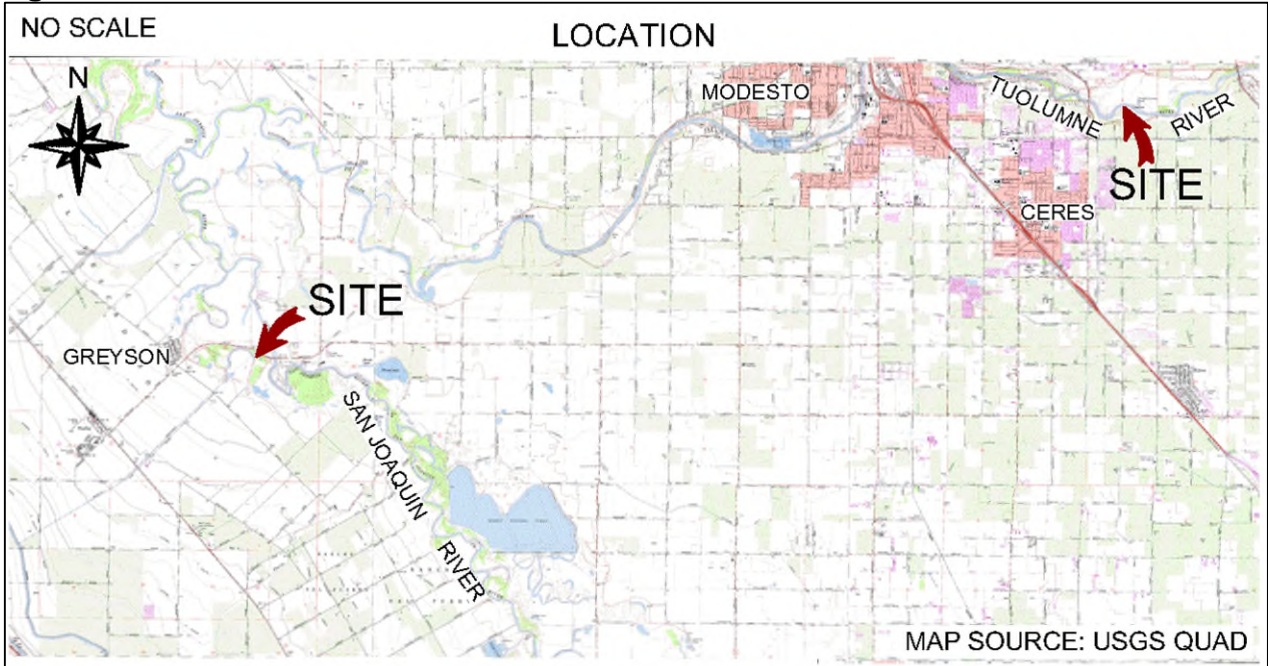
PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Tuolumne River, adjacent to Assessor’s Parcel Number 039-011-020-000, near Ceres, Stanislaus County; Laird Slough, adjacent to Assessor’s Parcel Number 017-066-009-000, near Grayson, Stanislaus County; and San Joaquin River, adjacent to Assessor’s Parcel Number 016-026-008-000, near Grayson, Stanislaus County (as shown in Figure 1).

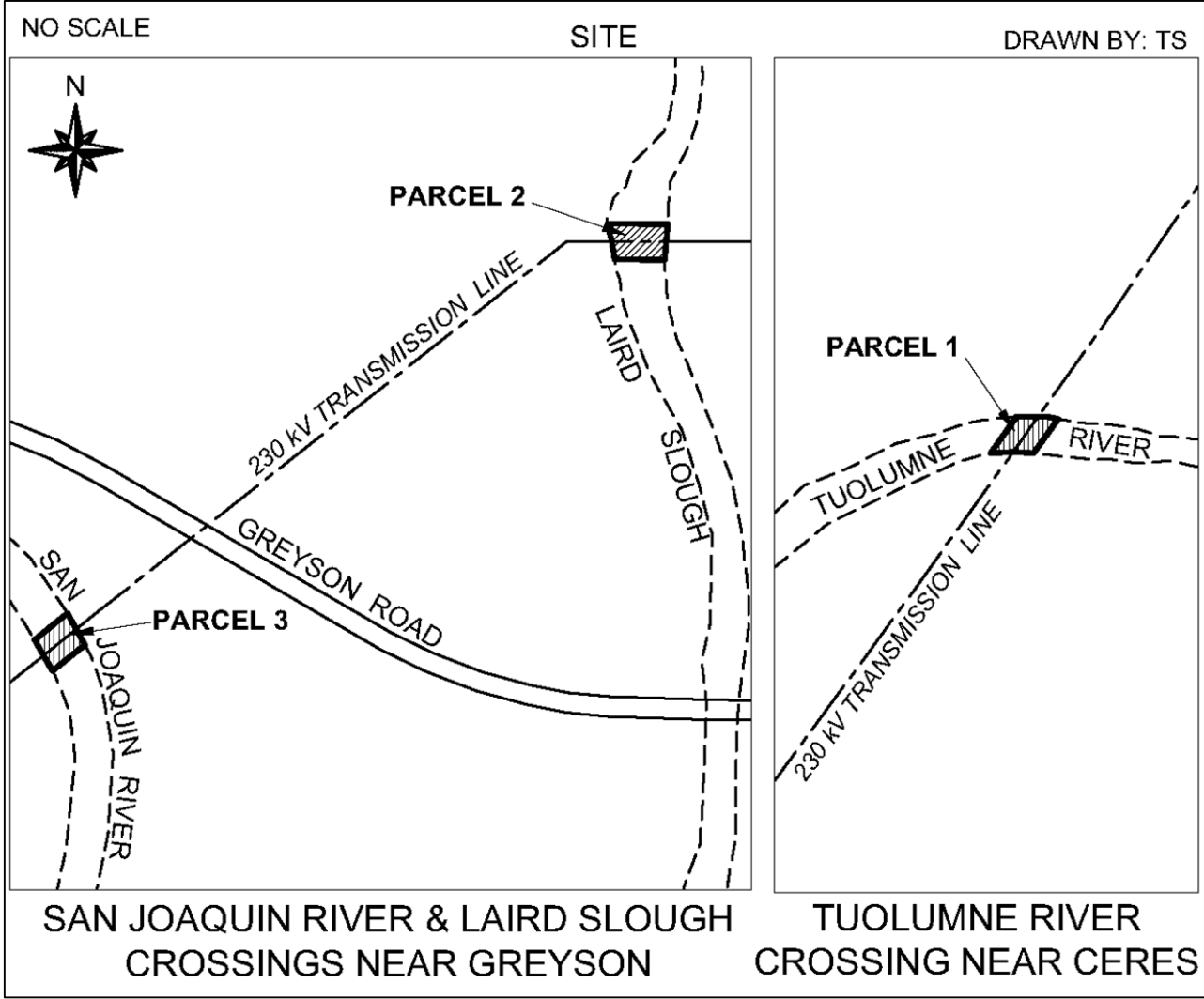
Figure 1. Location



AUTHORIZED USE:

Use of an existing 230kV overhead electrical transmission line (as shown in Figure 2).

Figure 2. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

TERM:

20 years, beginning April 2, 2025.

CONSIDERATION:

The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State’s best interest.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- The lease indemnity provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee’s unauthorized occupation of state-owned lands prior to April 2, 2025.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

On October 29, 1975, the Commission authorized a 49-year General Lease – Right-of-Way Use for construction and maintenance of an overhead 230kV (kilovolt) transmission line at three locations over the Tuolumne and San Joaquin Rivers and Laird Slough ([Item 6, October 29, 1975](#)). That lease expired August 31, 2024.

The Applicant is applying for issuance of a General Lease – Public Agency Use, for use of an existing 230kV transmission line crossing over sovereign land. The improvements are located above the Tuolumne River, near Ceres, in Stanislaus County; Laird Slough, near Grayson, in Stanislaus County; and San Joaquin River, near Grayson, in Stanislaus County. The associated transmission towers are located on upland parcels outside of the Commission’s jurisdiction. The Applicant owns and operates the transmission line for the benefit of the general public, providing power outside the district boundaries to support the statewide power grid reliability.

The proposed lease will require the Applicant to indemnify the State for the entire period of occupation from September 1, 2024, to April 2, 2025, ensuring the State is fully protected. The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee’s activities thereon.

The existing improvements are above the riverbeds and sloughs and therefore do not impede surface use or interfere with Public Trust needs and values at this location, at this time, and for the term of the proposed lease. The public may navigate the rivers and sloughs and use them for recreational activities, such as fishing and boating without interference from the improvements. The improvements

do not significantly alter the land, and the lease does not alienate the State's sovereign interest or permanently impact public rights. The lease is limited to a 20-year term and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition.

CLIMATE CHANGE:

The lease area is not tidally influenced and therefore, would not be subject to sea level rise. However, as stated in the [Safeguarding California Plan: 2018 Update](#) (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms. In rivers, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability. Climate change will further influence riverine areas by changing erosion and sedimentation rates, and flooding and storm flow, as well as runoff, will likely increase scour, decreasing bank stability at a faster rate.

The transmission towers supporting the power lines are located on upland areas near the banks of the San Joaquin and Tuolumne Rivers and could need reinforcement in the future to withstand higher levels of flood exposure and more frequent storm events. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to the effects of climate change.

CONCLUSION:

For all the reasons above, staff believe the issuance of the lease will not substantially impair the public rights to navigation, fishing, and commerce, or substantially interfere with the Public Trust needs and values at this location, at this time, and for the term of the lease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of

the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the existing improvements and restore the land to its natural condition. The Lessee has no right to a new lease or to renewal of any previous lease.

2. This action is consistent with the "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the [Commission's 2021-2025 Strategic Plan](#).
3. Staff recommend that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061.

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation, fishing, and commerce or substantially interfere with Public Trust needs and values at this location, at this time and for the term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning April 2, 2025, for a term of 20 years, for the use of an existing 230kV overhead electrical transmission line in the Tuolumne River near Ceres, and Laird Slough and the San Joaquin River, near Grayson, Stanislaus County; consideration: the public use and benefit, with the State reserving the right at any time to set a

monetary rent if the Commission finds such action to be in the State's best interests; liability insurance in an amount no less than \$1,000,000 per occurrence, Lessee may satisfy all or part of this insurance requirement through maintenance of a staff-approved self-insurance program as specified in the lease.